want to make sure that this withstands any constitutional challenge that might be made against it. This is excellent legislation which will literally help thousands and thousands of the most desperately needy people in this country.

I want to thank the chairman for his leadership again on this. Let us pass this legislation today. It is important to an awful lot of people.

RESPONSES TO FALSE DEMOCRATIC CLAIMS IN THEIR DISSENTING VIEWS IN THE COMMITTEE REPORT

Claimed comparison of H.R. 7 with language of 1996 Welfare Reform Act

Footnote 7 of the Dissenting Views states that H.R. 7 does not contain language from the 1996 Welfare Reform Act that indicated its provisions were not intended to supercede State law, and therefore the absence of that provision from H.R. 7 means it somehow preempts State law. That is a mischaracterization of the provision in the 1996 Welfare Reform Act. The provision referred to in the 1996 Act was simply a ''savings clause'' that recognized that some states have provisions in their constitutions and state laws that don't allow them to spend state funds on faith-based organizations. The savings clause simply recognized that in those states with such laws, they could continue to segregate state funds as required by state law, but that they could also use federal funds in accordance with the charitable choice provisions of the 1996 Welfare Reform Act. Conference Report 104–430, accompanying H.R. 4, 104th Congress, 1st Session (December 20, 1995), at 361—the previously adopted welfare reform bill with the identical subsection (k) as that found in the Welfare Reform Act of 1996—provides the following explanation for the subsection: ''Subsection (k) states that nothing in this section shall be construed to preempt State constitutions or statutes which restrict the expenditure of State funds in or by religious organizations. In some States, provisions of the State constitution or a State statute prohibit the expenditure of public funds in or by sectarian institutions. It is the intent of Congress, however, to encourage States to involve religious organizations in the delivery of welfare services to the greatest extent possible. The conferees do not intend that this language be construed to required that funds provided by the Federal government referred to in subsection (a) be segregated and expended under rules different than funds provided by the State for the same purposes; however, States may revise such laws, or segregate State and Federal funds, as necessary to allow full participation in these programs by religious organizations.'' H.R. 7 gives states the same option. Subsection (j) provides that insofar as states use federal funds, or mingle state and federal funds, and uses them for covered programs, the federal rules in H.R. 7 apply. If states separate out their state funds, then they can of course use them without any federal conditions attaching.

Claim that millions of dollars already go to groups like Catholic Charities, so there is no problem to fix

The Dissenting Views point out that millions of dollars go to large organizations such as Catholic Charities every year, but fails to mention these are large, separately incorporated and secularized organizations, not churches. The purpose of H.R. 7 is to allow small religious organizations to be able to compete for social service funds by removing barriers to entry and allowing them to serve as churches, and to provide social services in their churches without having to rent out separate, expensive office space, or having to hire lawyers to create separate corporations.

Claim that H.R. 7 preempts general state and local nondiscrimination in employment laws

The Dissenting Views states that under H.R. 7 a national religious organization could choose to accept a single federal grant and attempt to use that as a shield against laws protecting gay and lesbian employment rights in all 50 states. This is wrong. Subsections (d) and (e) in H.R. 7 do not constitute a general preemption clause, but a narrow statutory right afforded faith-based organizations to help them preserve their religious liberty when they are using federal funds during the course of a federally funded program and encourage their participation in the delivery of social services for the poor and the needy. When a religious organization is not using federal funds during the hours of a federally funded program, which will be most of the time, the protections of H.R. 7 do not apply, and all State and local nondiscrimination in employment laws that are not tied to government funding, including those that prohibit discrimination based on sexual orientation, remain in effect. For example, in 16 states, employers with a single employee are covered by their state's civil rights law. Others set the minimum number of employees between 4 and 10. Ohio's employment discrimination law covers employers with 4 or more employees; Oh.St. §4112.01(A)(2); Wisconsin's covers employers with 1 or more employees; Wi.St. 111.32(6)(a); Massachusetts' covers employers with 6 or more employees; Ma.St. 151B §1(5); New York's covers employers with 4 or more employees; N.Y.Exec. §292(5); Michigan's covers employers with 1 or more employees; Mi.St. §37.2201(a); California's covers employers with 5 or more employees; Ca.Civil §51.5(a). Also, the provisions of H.R. 7 will not apply whenever a State or local government chooses to separate its federal funds from its nonfederal funds. Experience from existing charitable choice laws that contain the very same provisions as H.R. 7—and which have been on the books for five years—has shown that this narrow statutory right will not need to be invoked very often, if ever.

Claim that the House has never previously considered the details of charitable choice provisions

Contrary to the assertion in the Dissenting Views, the House has voted several times on amendments offered by Mr. Scott to strip away charitable choice provisions that would allow religious organizations to continue to be able to hire based on religion while taking part on federal programs.

The Fathers Count Act of 1999 contained the charitable choice provisions of the Welfare Reform Act of 1996. Mr. Scott offered a motion to recommit the bill with instructions to remove the charitable choice provision allowing religious organizations receiving funds under the designated programs to make employment decisions on religious grounds. This motion was defeated 176–246, by a 70 vote margin including 34 Democrats. The bill was then adopted by the House by a vote of 328–93, by a 235 vote margin. Constitution subcommittee Ranking Member Nadler voted for the bill, as did four other Democratic Members of the House Judiciary Committee. Those other Members were Sheila Jackson-Lee, Boucher, Delahunt, and Meehan.

The Child Support Distribution Act of 2000 also contained the charitable choice provisions of the Welfare Reform Act of 1996. Mr. Scott's motion to recommit with instructions would have removed the charitable choice provision allowing participating religious organizations to make employment decisions on religious grounds. The motion was defeated 175–249, by a 74 vote margin including 30 Decmocrats. The bill was then adopted by a vote of 405–18, by a 387 vote margin. Constitution Subcommittee Ranking Member Nadler voted for the bill, as did eight other Democratic Members of the House Judiciary Committee. Those other Members were Conyers, Watt Jackson-Lee, Lofgren, Berman, Boucher, Meehan, Delahunt, Wexler, Baldwin, and Weiner.

Claims regarding statements made by President Clinton when he signed previous charitable chioce laws

The Dissenting Views incorrectly state that prior charitable choice laws were enacted without the support of President Clinton, and they cite President Clinton's statement when he signed the re-authorization measure for the Community Services Block Grants Program (''CSBG'') into law that its charitable choice provisions should not be used to fund '' 'pervasively sectarian' organizations, as tha term has been defined by the courts.'' 134 Weekly Compilation of Presidential Documents 2148 (Nov. 2, 1998) (Statement on Signing the Community Opportunities, Accountability, and Training and Educational Services Act of 1998). However, the courts have since abandoned the ''pervasively sectarian'' test, and President Clinton's later statements on charitable choice provisions in October and December 2000, do not rely on the pervasively sectarian test, and those statements in fact support H.R. 7. The Congressional Research Service concluded in the December 27, 2000, Report to Congress on Charitable Choice, that ''In its most recent decisions[,] the [Supreme] Court appears to have abandoned the presumption that some religious institutions, such as sectarian elementary and secondary schools, are so pervasively sectarian that they are constitutionally ineligible to participate in direct public aid programs.'' CRS Report, at 29.

Indeed, on October 17, 2000, President Clinton stated his constitutional concerns regarding the implementation of the charitable choice provisions in Substsance Abuse and Mental Health Services Administration (''SAMHSA'') programs as follows: ''This bill includes a provision making clear that religious organizations may qualify for SAMHSA's substance abuse prevention and treatment grants on the same basis as other nonprofit organizations. The Department of Justice advises, however, that this provision would be unconstitutional to the extent that it were construed to permit governmental funding of organizations that do not or cannot separate their religious activities from their substance abuse treatment and prevention activities that are supported by SAMHSA aid. Accordingly, I construe the act as forbidding the funding of such organizations and as permitting Federal, State, and local governments involved in disbursing SAMHSA funds to take into account the structure and operations of a religious organization in determining whether such an organization is constitutionally and statutorily eligible to receive funding.'' Weekly Compilation of Presidential Documents (Oct. 23, 2000) (Statement on Signing the Children's Health Act of 2000), p. 2504. He made an identical statement regarding the charitable choice provisions in the Community Renewal Tax Relief Act when he signed that measure into law on December 15, 2000. See White House Office of the Press Secretary, ''Statement of the President Upon Signing H.R. 4577, the Consolidated Appropriations Act, FY 2001'' (December 22, 2000), at 8. These concerns are the same as those addressed by the provision in subsection (j) of the